

STATEMENT OF PURPOSE

RS20997

The purpose of this legislation is to bring the Land Board and Dept. of Lands into conformance with the Idaho Code and Constitution.

Even though Idaho Code 58-310(1) states, "When two (2) or more persons apply to lease the same land, the director of the department of lands ... shall ... auction off and lease the land to the applicant who will pay the highest premium bid therefore, ... "

The cottage sites were specifically exempted from the conflict auction requirement by Idaho Code 58-310A. In place of an auction as required in Article IX, Sec. 8 of the Constitution, Idaho Code 58-310A states, " ... the board shall ensure that each leased lot generates market rent throughout the duration of the lease."

However, in Wasden vs. Land Board (2010), the Idaho Supreme Court found, "Thus, three out of five members of the Board have expressly stated that the existence of premium rent shows that the Board is failing to achieve market rent throughout the duration of the leases." In Wasden vs. Land Board, Justice Burdick dissented. However, he wrote on page 11: "The facts in this case are not in dispute. The record clearly demonstrates that the Land Board is exceeding its discretion in leasing the cottage sites for less than market value and failing to obtain the maximum long-term financial return for the beneficiaries, which is a violation of both Idaho Code 58-310A and the Idaho Constitution. The majority does not deny this, ... "

Footnote 10 in Wasden vs. Land Board, page 17 states, "Although not argued by any party here, Idaho Code 58-310A is clearly unconstitutional as - in eliminating the conflict auction procedure and instead requiring "market rent."

Idaho Code 58-310B was addressed in Idaho Watersheds Project vs. State Board of Land Commissioners in the Idaho Supreme Court in 1999. Page 1: 1. "This is a state endowment land lease case. We conclude that section 58-310B of the Idaho Code (I.C.) violates Article IX, Section 8 of the Idaho Constitution." Page 5: 2. "We conclude that Idaho Code 58-310 is a regulation ... prescribed by law" that the Board has a duty to follow for the rental of the school endowment lands. Therefore, on remand, we direct that the Board follow the procedures in Idaho Code 58-310 in leasing the land covered by the 1996 leases we have invalidated by our opinion today."

The Idaho Supreme Court has ruled that Idaho Code 58-310B is unconstitutional, and Idaho Code 58-310A was called "clearly unconstitutional" in footnote 10 in Wasden verses Land Board. This legislation repeals those two sections.

FISCAL NOTE

There is no fiscal impact on the General Fund. It is likely there would be an increase in funds to the school endowment fund due to establishing market rent for leased property by holding auctions.

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Statement of Purpose / Fiscal Note

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